

IN THE SUPREME COURT OF THE STATE OF MONTANA

PR 06-0120

FILED

JAN 26 2010

*Ed Smith*  
CLERK OF THE SUPREME COURT  
STATE OF MONTANADISQUALIFICATION OF DISTRICT COURT  
JUDGE,

O R D E R

In the Matter of the Estate of Larry Gordon Burton,  
Sylvia Geschell, Petitioner.

Sylvia Geschell, a legatee of the captioned estate appearing as a self-represented litigant (Geschell), has filed an "Affidavit for Disqualification of Presiding Judge for Cause," together with an "Affidavit in Certification of Good Faith Regarding the Larry Burton Estate." Geschell seeks to disqualify the Honorable John Larson from further proceedings in the Estate, complaining that he has rejected two motions she has filed requesting a settlement hearing, and that in doing so, he has adopted virtually verbatim the proposal for disposition of the motion offered by opposing counsel. She maintains that such actions have precluded her from offering new evidence and demonstrate bias.

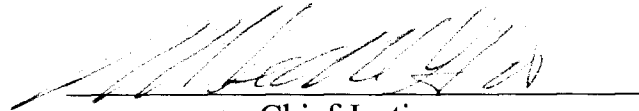
It appears from the attachments to Geschell's affidavits that she is attempting to set aside the District Court's Findings of Fact and Conclusions of Law entered on August 27, 2008, from which no appeal was taken. In refusing to now set a settlement hearing as Geschell requests, the District Court is effectively denying Geschell's attempt to re-open those proceedings. Such an action does not demonstrate personal bias.

We conclude that Geschell has failed to allege any specific acts showing personal bias or prejudice against her, as is required by § 3-1-805, MCA. Accordingly,

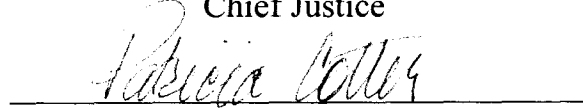
IT IS HEREBY ORDERED that Geschell's motion to disqualify Judge Larson is DENIED and SET ASIDE AS VOID, pursuant to § 3-1-805(1)(c), MCA.

IT IS FURTHER ORDERED that the Clerk of this Court serve notice of this Order by mail upon Geschell at her last known address, upon all counsel of record, and upon the Honorable John Larson, Montana Fourth Judicial District Court, under Cause No. DP-04-127.

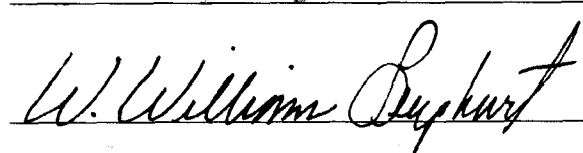
DATED this, 20<sup>th</sup> day of January, 2010.



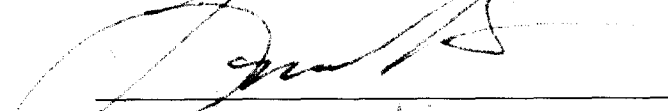
Chief Justice













Justices